



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

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Art Unit: 1745  
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Examiner: Alex Echelmeyer  
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Our Ref. No: 12903-B  
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Date: 3/30/2007  
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Applicant: Weil et al.

S. N.: 10/609,069

Filed: 06/27/2003

For: SOLID FUEL CELL FRAMES AND  
METHOD OF MANUFACTURE

DECLARATION OF SCOTT WEIL UNDER 37 CFR §1.132

My name is, Scott Weil, I am a legal and competent adult and make the following declaration of my own personal knowledge:

1. I am a researcher and scientist at the Pacific Northwest National Laboratory and have been since 6/1/2000.
2. My principal research has been in fuel cell technologies and more particularly in interconnect and sealing technology.
3. As a part of the program of the laboratory we associate ourselves with other companies in engaging in research and development projects in various areas of technology. In these ventures information regarding technologies is exchanged frequently.
4. One of the companies with which we have engaged in various projects has been Delphi Corporation the assignee of publication no. US 2003/0235746 A1 (the cited reference) which has been cited by the Examiner as an anticipating reference under 35 USC §102(e). Our work with Delphi Corporation on the subject matter of the cited reference started at least as early as May 21, 2001 and has continued since that time.
5. My review of the cited reference, as well as disclosures that were made in private presentations to Delphi prior to filing date of the cited reference show that the material which was described in this cited reference was invented by me and my team and provided to Delphi's representatives. Therefore, the disclosure which has been cited by the Examiner is not truly the work of another but is the work of the parties which are named in the currently pending application.

6. In support of these statements, please find as Exhibit A, a true and correct copy of the previously submitted declaration of Kerry Meinhardt which includes as an attachment thereto a copy of the internal invention disclosure record that was made with regard to the present invention. As indicated earlier, this date of disclosure is November of 2000. This is significantly earlier than the June 24, 2002 filing date of the Haltiner reference.
7. In the interim period of time between the completion of this invention report and the filing of the application my team and I were engaged in a variety of activities related to the reducing of the concept in this invention disclosure to practice.
8. For the time period between September of 2000 and June 24, 2002 we were engaged in various activities related to the further modifications of the design, this included modifications and improvement to interconnect and frame design, sealing design, cell design, and overall stack design.
9. Also during this period and extending for a time period thereafter, we were engaged in various activities in reducing the invention to practice including interconnect and frame development and fabrication; sealing development and fabrication; cell development and fabrication; and stack development, fabrication, and testing.
10. The principal feature that is described and claimed in the cited reference is the presence of a frame for receiving a fuel cell element with a central aperture for exposure of either the anode or the cathode. This is different from the cell to edge concept which was taught and described in earlier embodiments in the prior art. The presence of anodes and cathodes in fuel cells was already known in the art.
11. The features that are described in the cited reference are also shown at least as far back as May 21, 2000 in various PNNL recordings including the lab notebook of Kerry Meinhardt #57464.
12. In addition, this information was provided in various private presentations to Delphi. These disclosures include the following dated powerpoint (ppt) slides, and presentation papers. True and correct printed out copies of one of these disclosures are attached hereto as Exhibit B1. In addition these other presentations of subject matter found in the Haltiner reference were also made to Delphi.
  - Interconnect Review.ppt ; author Weil; dated 7/6/00
  - Exploded view of cell.ppt; author Weil; dated 6/29/00
  - NETL 10-27-00; author Weil; dated 10/25/00
  - TWP 11-10-00.doc; author Weil; dated 11/10/00
  - LAC 11-14-00.DOC author Weil; dated 11/14/00
  - Future component work 10-18-00.doc; author Weil; dated 11/15/00
  - Scott's fuel cell assy.ppt; author Weil; dated 11/16/00
  - Pics of stack #3; author Weil; dated 7/20/01
  - Picture frame design.rtf; author Weil dated 10/4/00

13. These papers show that the materials in the cited reference were in fact first invented by myself and my team prior to the filing date of the cited reference and the invention that is set forth in the cited reference is in fact our original invention.
14. In addition to these features, other items which are set out in the cited reference are also inventions taught by the inventors of the current application. For example, a fuel cell module that also includes a fusible seal on an outer surface of the module to seal the adjacent module in a fuel cell stack assembly process is a taught in the prior art including U.S. Pat. No. 6,532,769, which was includes K.D. Meinhardt who is also a named inventor on the present application.
15. At present the respective representatives of the assignees of the cited reference and the present application are in discussions to regarding the amendment of inventorship between the applications so as to correct the inventorship of the cited reference. It is believed and hoped that appropriate amendments to the inventorship of the cited reference will be forthcoming.
16. Nevertheless, in view of the statements indicated above applicant respectfully requests that the Examiner remove the cited reference as prior art because this reference cites the Applicant's own information and as such does not qualify as prior art under 35 USC §102(e).
17. All of the statements made herein from personal knowledge are true and correct statements made by the indicated person, and all statements made on information and belief are believed to be true. The undersigned acknowledges that willful false statements and the like are punishable by fine or imprisonment, or both (18 U.S.C. 1001) and may jeopardize the validity of the application or any patent issuing thereon.

Dated this 3<sup>rd</sup> day of March, 2007.



Scott Weil (Inventor)